



Montana Legislative History

Chapter: 224 Session L: 2015

Bill Number: 319 House Bill

Checklist of Bill History

History and Final Status Sheet	x
Introduced Bill	X
Fiscal Note	N/A
Third Reading Bill	X
Final Version of Bill	X

House

Committee:
Human Service

Hearing Date(s):

[Feb. 2, 2015](#)

Feb. 4, 2015 (Exec. Action)

Senate

Committee:
Public Health, Welfare and Safety

Hearing Date(s):
[March 9, 2015](#)

Conference Committee

Hearing Date(s): n/a

Conference Committee Report:

Compiler Notes

Compiled by: sg

Date: 6/20/24

Notes:

Bill Draft Number: LC2233

Bill Type - Number: HB 319

Short Title: Revise medical lien laws

Primary Sponsor: Albert Olszewski (R) HD 11

Chapter Number: 224

Bill Actions - Current Bill Progress: Became Law

Bill Action Count: 44

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	04/10/2015			
(H) Transmitted to Governor	03/30/2015			
(S) Signed by President	03/28/2015			
(H) Signed by Speaker	03/27/2015			
(H) Returned from Enrolling	03/24/2015			
(C) Printed - Enrolled Version Available	03/24/2015			
(H) Sent to Enrolling	03/23/2015			
(H) 3rd Reading Passed as Amended by Senate	03/23/2015	67	32	
(H) Scheduled for 3rd Reading	03/23/2015			
(H) 2nd Reading Senate Amendments Concurred	03/20/2015	88	12	
(H) Scheduled for 2nd Reading	03/20/2015			
(S) Returned to House with Amendments	03/13/2015			
(S) 3rd Reading Concurred	03/13/2015	49	0	
(S) Scheduled for 3rd Reading	03/13/2015			
(S) 2nd Reading Concurred	03/12/2015	49	0	
(S) Scheduled for 2nd Reading	03/12/2015			
(C) Printed - New Version Available	03/10/2015			
(S) Committee Report--Bill Concurred as Amended	03/10/2015			(S) Public Health, Welfare and Safety
(S) Committee Executive Action--Bill Concurred as Amended	03/09/2015	5	1	(S) Public Health, Welfare and Safety
(S) Hearing	03/09/2015			(S) Public Health, Welfare and Safety
(S) Referred to Committee	02/14/2015			(S) Public Health, Welfare and Safety
(S) First Reading	02/14/2015			
(H) Transmitted to Senate	02/13/2015			
(H) 3rd Reading Passed	02/12/2015	81	19	
(H) Scheduled for 3rd Reading	02/12/2015			
(H) 2nd Reading Passed	02/11/2015	75	25	
(H) Scheduled for 2nd Reading	02/11/2015			
(H) Committee Report--Bill Passed	02/05/2015			(H) Human Services

(H) Committee Executive Action--Bill Passed	02/04/2015	10	7 (H) Human Services
(H) Hearing	02/02/2015		(H) Human Services
(C) Introduced Bill Text Available Electronically	01/26/2015		
(H) First Reading	01/26/2015		
(H) Referred to Committee	01/26/2015		(H) Human Services
(H) Introduced	01/26/2015		
(C) Draft Delivered to Requester	01/23/2015		
(C) Draft Ready for Delivery	01/22/2015		
(C) Draft in Assembly/Executive Director Review	01/22/2015		
(C) Draft in Final Drafter Review	01/22/2015		
(C) Bill Draft Text Available Electronically	01/21/2015		
(C) Draft in Input/Proofing	01/21/2015		
(C) Draft to Drafter - Edit Review [JLN]	01/21/2015		
(C) Draft in Legal Review	01/20/2015		
(C) Draft to Requester for Review	01/19/2015		
(C) Draft Request Received	01/13/2015		

Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name Mi
Requester	Olszewski	Albert
Drafter	Sandru	Alexis
Primary Sponsor	Olszewski	Albert

Subjects

Description	Revenue/Approp. Vote Majority Req.	Subject Code
Remedies (see also: Liability; Torts)	Simple	REM

Additional Bill Information

Fiscal Note Probable: No
Preintroduction Required: N
Session Law Ch. Number: 224
DEADLINE
Category: General Bills
Transmittal Date: 02/27/2015
Return (with 2nd house amendments) Date: 04/11/2015

Section Effective Dates

Section(s) Effective Date Date Qualified

All Sections 01-OCT-15

CHAPTER NO. 224

[HB 319]

AN ACT REVISING HEALTH CARE PROVIDER AND HEALTH CARE FACILITIES LIEN LAWS TO INCLUDE ADDITIONAL HEALTH CARE PROVIDERS AND FACILITIES; AND AMENDING SECTIONS 71-3-1111, 71-3-1112, 71-3-1114, 71-3-1115, 71-3-1117, AND 71-3-1118, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 71-3-1111, MCA, is amended to read:

“71-3-1111. Short title. This part may be cited as the “Physician, Nurse, Physical Therapist, Occupational Therapist, Acupuncturist, Chiropractor, Dentist, Psychologist, Licensed Social Worker, Licensed Professional Counselor, Hospital, *Optometrist, Naturopathic Physician, Podiatrist, Ambulance Service, Rehabilitation Facility, Long-term Care Facility*, and Outpatient Center for Surgical Services Lien Act”.”

Section 2. Section 71-3-1112, MCA, is amended to read:

“71-3-1112. Purpose. The purpose of this part is to establish lien rights for physicians, nurses, physical therapists, occupational therapists, acupuncturists, chiropractors, dentists, hospitals, *optometrists, naturopathic physicians, podiatrists, ambulance services, rehabilitation facilities, long-term care facilities*, and outpatient centers for surgical services for the value of services rendered and products provided for the diagnosis and treatment of medical conditions and to establish lien rights for psychologists, licensed social workers, and licensed professional counselors for services rendered and products provided when a person receiving treatment:

- (1) is injured through the fault or neglect of another; or
- (2) is either insured or a beneficiary under insurance.”

Section 3. Section 71-3-1114, MCA, is amended to read:

“71-3-1114. Liens of certain health care providers and health care facilities. (1) (a) Upon the required notice of a lien being given, there is a lien as provided in subsection (1)(b) whenever:

(i) a physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist, hospital, outpatient center for surgical services, *optometrist, naturopathic physician, podiatrist, rehabilitation facility, long-term care facility*, or ambulance service renders services or provides products for the diagnosis and treatment of a medical condition; or

(ii) a psychologist, licensed social worker, or licensed professional counselor renders services or provides products; and

(iii) the services rendered or products provided under subsection (1)(a)(i) or (1)(a)(ii) are rendered or provided to a person injured through the fault or neglect of another.

(b) The physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist, hospital, outpatient center for surgical services, ambulance service, *optometrist, naturopathic physician, podiatrist, rehabilitation facility, long-term care facility*, psychologist, licensed social worker, or licensed professional counselor has a lien for the value of services rendered or products provided on:

(i) any claim or cause of action that the injured person or the injured person’s estate or successors may have for injury, disease, or death;

(ii) any judgment that the injured person or the estate or successors may obtain for injury, disease, or death; and

(iii) all money paid in satisfaction of the judgment or in settlement of the claim or cause of action.

(2) (a) If a person is an insured or a beneficiary under insurance that provides coverage in the event of injury or disease, there is a lien as provided in subsection (2)(b) upon required notice of a lien being given by:

(i) a physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist, hospital, outpatient center for surgical services, *optometrist, naturopathic physician, podiatrist, rehabilitation facility, long-term care facility*, or ambulance service for the value of services rendered or products provided for the diagnosis and treatment of a medical condition; or

(ii) a psychologist, licensed social worker, or licensed professional counselor for services rendered or products provided.

(b) The lien is on all proceeds or payments, except payments for property damage, payable by the insurer.

(3) A physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist, hospital, outpatient center for surgical services, ambulance service, *optometrist, naturopathic physician, podiatrist, rehabilitation facility, long-term care facility*, psychologist, licensed social worker, or licensed professional counselor claiming a lien under this part is not liable for attorney fees and costs incurred by the injured person, the injured person's estate or successors, or a beneficiary in connection with obtaining payments or benefits subject to a lien under this part. The lien of an attorney provided for in 37-61-420 has priority over a lien created by this part."

Section 4. Section 71-3-1115, MCA, is amended to read:

"71-3-1115. Notice of lien. (1) A physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist, psychologist, licensed social worker, licensed professional counselor, hospital, *optometrist, naturopathic physician, podiatrist, ambulance service, rehabilitation facility, long-term care facility*, or outpatient center for surgical services claiming a lien shall serve written notice upon the person and upon the insurer, if any, against whom liability for injury, disease, counseling service, or death is asserted, stating the nature of the services, for whom and when rendered, the value of the services, and that a lien is claimed.

(2) A physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist, psychologist, licensed social worker, licensed professional counselor, hospital, *optometrist, naturopathic physician, podiatrist, ambulance service, rehabilitation facility, long-term care facility*, or outpatient center for surgical services claiming a lien upon proceeds or payments payable by an insurer shall serve written notice upon the insurer against whom the lien is asserted, stating the nature of the services, for whom and when rendered, the value of the services, and that a lien is claimed."

Section 5. Section 71-3-1117, MCA, is amended to read:

"71-3-1117. Liability for failure to recognize lien. If any insurer or person, after receiving notice of a lien, makes payment on account of injury, disease, counseling service, or death and the amount of the lien claimed by any physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist, *optometrist, naturopathic physician, podiatrist, ambulance service, rehabilitation facility, long-term care facility*, psychologist, licensed social worker, licensed professional counselor, hospital, or outpatient

center for surgical services has not been paid, the insurer or person is liable to the physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist, *optometrist, naturopathic physician, podiatrist, ambulance service, rehabilitation facility, long-term care facility*, psychologist, licensed social worker, licensed professional counselor, hospital, or outpatient center for surgical services for the reasonable value of the services.”

Section 6. Section 71-3-1118, MCA, is amended to read:

“71-3-1118. Applicability. (1) Except as provided in subsection (2), this part does not apply to compensation awarded to workers for injury, disease, or death pursuant to the Workers’ Compensation Act.

(2) This part applies to all payments awarded for medical, therapy, acupuncture, chiropractic, dentistry, counseling, and hospital services pursuant to the acts referred to in subsection (1).

(3) This part does not apply to any benefits payable under:

(a) a policy of life insurance or group life insurance;

(b) a contract of disability insurance, except benefits payable in reimbursement for services rendered by a physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist, *optometrist, naturopathic physician, podiatrist, ambulance service, rehabilitation facility, long-term care facility*, psychologist, licensed social worker, licensed professional counselor, hospital, or outpatient center for surgical services; or

(c) an annuity contract or to pension benefits payable under a qualified pension plan.”

Approved April 9, 2015

CHAPTER NO. 225

[HB 324]

AN ACT ELIMINATING THE REQUIREMENT FOR INSURERS TO PROVIDE CERTIFICATION OF CREDITABLE COVERAGE; ALLOWING FOR CERTIFICATION TO BE ISSUED UPON REQUEST; AMENDING SECTION 33-22-142, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 33-22-142, MCA, is amended to read:

“33-22-142. Certification of creditable coverage. (1) (a) A group health plan and a health insurance issuer offering group or individual health insurance coverage shall issue the certification described in subsection (3):

(a) within 10 days after a request by an individual who ceases to be covered under the group or individual health plan. ~~or otherwise becomes covered under a COBRA continuation provision;~~

(b) ~~not later than 10 days after the expiration of the notice period for cancellation for nonpayment of premium pursuant to the provisions of 33-22-121 and 33-22-530 or after termination of coverage for any other reason;~~

(c) ~~in the case of an individual becoming covered under a COBRA continuation provision, at the time that the individual ceases to be covered under a COBRA continuation provision; and~~



AN ACT REVISING HEALTH CARE PROVIDER AND HEALTH CARE FACILITIES LIEN LAWS TO INCLUDE ADDITIONAL HEALTH CARE PROVIDERS AND FACILITIES; AND AMENDING SECTIONS 71-3-1111, 71-3-1112, 71-3-1114, 71-3-1115, 71-3-1117, AND 71-3-1118, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 71-3-1111, MCA, is amended to read:

"71-3-1111. Short title. This part may be cited as the "Physician, Nurse, Physical Therapist, Occupational Therapist, Acupuncturist, Chiropractor, Dentist, Psychologist, Licensed Social Worker, Licensed Professional Counselor, Hospital, Optometrist, Naturopathic Physician, Podiatrist, Ambulance Service, Rehabilitation Facility, Long-term Care Facility, and Outpatient Center for Surgical Services Lien Act"."

Section 2. Section 71-3-1112, MCA, is amended to read:

"71-3-1112. Purpose. The purpose of this part is to establish lien rights for physicians, nurses, physical therapists, occupational therapists, acupuncturists, chiropractors, dentists, hospitals, optometrists, naturopathic physicians, podiatrists, ambulance services, rehabilitation facilities, long-term care facilities, and outpatient centers for surgical services for the value of services rendered and products provided for the diagnosis and treatment of medical conditions and to establish lien rights for psychologists, licensed social workers, and licensed professional counselors for services rendered and products provided when a person receiving treatment:

- (1) is injured through the fault or neglect of another; or
- (2) is either insured or a beneficiary under insurance."

Section 3. Section 71-3-1114, MCA, is amended to read:

"71-3-1114. Liens of certain health care providers and health care facilities. (1) (a) Upon the required notice of a lien being given, there is a lien as provided in subsection (1)(b) whenever:

- (i) a physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist,

hospital, outpatient center for surgical services, optometrist, naturopathic physician, podiatrist, rehabilitation facility, long-term care facility, or ambulance service renders services or provides products for the diagnosis and treatment of a medical condition; or

(ii) a psychologist, licensed social worker, or licensed professional counselor renders services or provides products; and

(iii) the services rendered or products provided under subsection (1)(a)(i) or (1)(a)(ii) are rendered or provided to a person injured through the fault or neglect of another.

(b) The physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist, hospital, outpatient center for surgical services, ambulance service, optometrist, naturopathic physician, podiatrist, rehabilitation facility, long-term care facility, psychologist, licensed social worker, or licensed professional counselor has a lien for the value of services rendered or products provided on:

(i) any claim or cause of action that the injured person or the injured person's estate or successors may have for injury, disease, or death;

(ii) any judgment that the injured person or the estate or successors may obtain for injury, disease, or death; and

(iii) all money paid in satisfaction of the judgment or in settlement of the claim or cause of action.

(2) (a) If a person is an insured or a beneficiary under insurance that provides coverage in the event of injury or disease, there is a lien as provided in subsection (2)(b) upon required notice of a lien being given by:

(i) a physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist, hospital, outpatient center for surgical services, optometrist, naturopathic physician, podiatrist, rehabilitation facility, long-term care facility, or ambulance service for the value of services rendered or products provided for the diagnosis and treatment of a medical condition; or

(ii) a psychologist, licensed social worker, or licensed professional counselor for services rendered or products provided.

(b) The lien is on all proceeds or payments, except payments for property damage, payable by the insurer.

(3) A physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist, hospital, outpatient center for surgical services, ambulance service, optometrist, naturopathic physician, podiatrist, rehabilitation facility, long-term care facility, psychologist, licensed social worker, or licensed professional

counselor claiming a lien under this part is not liable for attorney fees and costs incurred by the injured person, the injured person's estate or successors, or a beneficiary in connection with obtaining payments or benefits subject to a lien under this part. The lien of an attorney provided for in 37-61-420 has priority over a lien created by this part."

Section 4. Section 71-3-1115, MCA, is amended to read:

"71-3-1115. Notice of lien. (1) A physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist, psychologist, licensed social worker, licensed professional counselor, hospital, optometrist, naturopathic physician, podiatrist, ambulance service, rehabilitation facility, long-term care facility, or outpatient center for surgical services claiming a lien shall serve written notice upon the person and upon the insurer, if any, against whom liability for injury, disease, counseling service, or death is asserted, stating the nature of the services, for whom and when rendered, the value of the services, and that a lien is claimed.

(2) A physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist, psychologist, licensed social worker, licensed professional counselor, hospital, optometrist, naturopathic physician, podiatrist, ambulance service, rehabilitation facility, long-term care facility, or outpatient center for surgical services claiming a lien upon proceeds or payments payable by an insurer shall serve written notice upon the insurer against whom the lien is asserted, stating the nature of the services, for whom and when rendered, the value of the services, and that a lien is claimed."

Section 5. Section 71-3-1117, MCA, is amended to read:

"71-3-1117. Liability for failure to recognize lien. If any insurer or person, after receiving notice of a lien, makes payment on account of injury, disease, counseling service, or death and the amount of the lien claimed by any physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist, optometrist, naturopathic physician, podiatrist, ambulance service, rehabilitation facility, long-term care facility, psychologist, licensed social worker, licensed professional counselor, hospital, or outpatient center for surgical services has not been paid, the insurer or person is liable to the physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist, optometrist, naturopathic physician, podiatrist, ambulance service, rehabilitation facility, long-term care facility, psychologist, licensed social worker, licensed professional counselor, hospital, or outpatient center for surgical services for the reasonable value of the services."

Section 6. Section 71-3-1118, MCA, is amended to read:

"71-3-1118. Applicability. (1) Except as provided in subsection (2), this part does not apply to compensation awarded to workers for injury, disease, or death pursuant to the Workers' Compensation Act.

(2) This part applies to all payments awarded for medical, therapy, acupuncture, chiropractic, dentistry, counseling, and hospital services pursuant to the acts referred to in subsection (1).

(3) This part does not apply to any benefits payable under:

(a) a policy of life insurance or group life insurance;

(b) a contract of disability insurance, except benefits payable in reimbursement for services rendered by a physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist, optometrist, naturopathic physician, podiatrist, ambulance service, rehabilitation facility, long-term care facility, psychologist, licensed social worker, licensed professional counselor, hospital, or outpatient center for surgical services; or

(c) an annuity contract or to pension benefits payable under a qualified pension plan."

- END -

I hereby certify that the within bill,
HB 0319, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2015.

President of the Senate

Signed this _____ day
of _____, 2015.

HOUSE BILL NO. 319
INTRODUCED BY A. OLSZEWSKI

AN ACT REVISING HEALTH CARE PROVIDER AND HEALTH CARE FACILITIES LIEN LAWS TO INCLUDE ADDITIONAL HEALTH CARE PROVIDERS AND FACILITIES; AND AMENDING SECTIONS 71-3-1111, 71-3-1112, 71-3-1114, 71-3-1115, 71-3-1117, AND 71-3-1118, MCA.

HOUSE BILL NO. 319

INTRODUCED BY A. OLSZEWSKI

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING HEALTH CARE PROVIDER AND HEALTH CARE FACILITIES LIEN LAWS TO INCLUDE ADDITIONAL HEALTH CARE PROVIDERS AND FACILITIES; AND AMENDING SECTIONS 71-3-1111, 71-3-1112, 71-3-1114, 71-3-1115, 71-3-1117, AND 71-3-1118, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 71-3-1111, MCA, is amended to read:

"71-3-1111. Short title. This part may be cited as the "Physician, Nurse, Physical Therapist, Occupational Therapist, Acupuncturist, Chiropractor, Dentist, Psychologist, Licensed Social Worker, Licensed Professional Counselor, Hospital, Optometrist, Podiatrist, Ambulance Service, Rehabilitation Facility, Long-term Care Facility, and Outpatient Center for Surgical Services Lien Act"."

Section 2. Section 71-3-1112, MCA, is amended to read:

"71-3-1112. Purpose. The purpose of this part is to establish lien rights for physicians, nurses, physical therapists, occupational therapists, acupuncturists, chiropractors, dentists, hospitals, optometrists, podiatrists, ambulance services, rehabilitation facilities, long-term care facilities, and outpatient centers for surgical services for the value of services rendered and products provided for the diagnosis and treatment of medical conditions and to establish lien rights for psychologists, licensed social workers, and licensed professional counselors for services rendered and products provided when a person receiving treatment:

- (1) is injured through the fault or neglect of another; or
- (2) is either insured or a beneficiary under insurance."

Section 3. Section 71-3-1114, MCA, is amended to read:

"71-3-1114. Liens of certain health care providers and health care facilities. (1) (a) Upon the required notice of a lien being given, there is a lien as provided in subsection (1)(b) whenever:

- (i) a physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist, hospital, outpatient center for surgical services, optometrist, podiatrist, rehabilitation facility, long-term care facility,

1 or ambulance service renders services or provides products for the diagnosis and treatment of a medical
2 condition; or

3 (ii) a psychologist, licensed social worker, or licensed professional counselor renders services or provides
4 products; and

5 (iii) the services rendered or products provided under subsection (1)(a)(i) or (1)(a)(ii) are rendered or
6 provided to a person injured through the fault or neglect of another.

7 (b) The physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist,
8 hospital, outpatient center for surgical services, ambulance service, optometrist, podiatrist, rehabilitation facility,
9 long-term care facility, psychologist, licensed social worker, or licensed professional counselor has a lien for the
10 value of services rendered or products provided on:

11 (i) any claim or cause of action that the injured person or the injured person's estate or successors may
12 have for injury, disease, or death;

13 (ii) any judgment that the injured person or the estate or successors may obtain for injury, disease, or
14 death; and

15 (iii) all money paid in satisfaction of the judgment or in settlement of the claim or cause of action.

16 (2) (a) If a person is an insured or a beneficiary under insurance that provides coverage in the event of
17 injury or disease, there is a lien as provided in subsection (2)(b) upon required notice of a lien being given by:

18 (i) a physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist,
19 hospital, outpatient center for surgical services, optometrist, podiatrist, rehabilitation facility, long-term care facility,
20 or ambulance service for the value of services rendered or products provided for the diagnosis and treatment of
21 a medical condition; or

22 (ii) a psychologist, licensed social worker, or licensed professional counselor for services rendered or
23 products provided.

24 (b) The lien is on all proceeds or payments, except payments for property damage, payable by the
25 insurer.

26 (3) A physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist,
27 hospital, outpatient center for surgical services, ambulance service, optometrist, podiatrist, rehabilitation facility,
28 long-term care facility, psychologist, licensed social worker, or licensed professional counselor claiming a lien
29 under this part is not liable for attorney fees and costs incurred by the injured person, the injured person's estate
30 or successors, or a beneficiary in connection with obtaining payments or benefits subject to a lien under this part.

1 The lien of an attorney provided for in 37-61-420 has priority over a lien created by this part."

2

3 **Section 4.** Section 71-3-1115, MCA, is amended to read:

4 **"71-3-1115. Notice of lien.** (1) A physician, nurse, physical therapist, occupational therapist,
5 acupuncturist, chiropractor, dentist, psychologist, licensed social worker, licensed professional counselor,
6 hospital, optometrist, podiatrist, ambulance service, rehabilitation facility, long-term care facility, or outpatient
7 center for surgical services claiming a lien shall serve written notice upon the person and upon the insurer, if any,
8 against whom liability for injury, disease, counseling service, or death is asserted, stating the nature of the
9 services, for whom and when rendered, the value of the services, and that a lien is claimed.

10 (2) A physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist,
11 psychologist, licensed social worker, licensed professional counselor, hospital, optometrist, podiatrist, ambulance
12 service, rehabilitation facility, long-term care facility, or outpatient center for surgical services claiming a lien upon
13 proceeds or payments payable by an insurer shall serve written notice upon the insurer against whom the lien
14 is asserted, stating the nature of the services, for whom and when rendered, the value of the services, and that
15 a lien is claimed."

16

17 **Section 5.** Section 71-3-1117, MCA, is amended to read:

18 **"71-3-1117. Liability for failure to recognize lien.** If any insurer or person, after receiving notice of a
19 lien, makes payment on account of injury, disease, counseling service, or death and the amount of the lien
20 claimed by any physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist,
21 optometrist, podiatrist, ambulance service, rehabilitation facility, long-term care facility, psychologist, licensed
22 social worker, licensed professional counselor, hospital, or outpatient center for surgical services has not been
23 paid, the insurer or person is liable to the physician, nurse, physical therapist, occupational therapist,
24 acupuncturist, chiropractor, dentist, optometrist, podiatrist, ambulance service, rehabilitation facility, long-term
25 care facility, psychologist, licensed social worker, licensed professional counselor, hospital, or outpatient center
26 for surgical services for the reasonable value of the services."

27

28 **Section 6.** Section 71-3-1118, MCA, is amended to read:

29 **"71-3-1118. Applicability.** (1) Except as provided in subsection (2), this part does not apply to
30 compensation awarded to workers for injury, disease, or death pursuant to the Workers' Compensation Act.

(2) This part applies to all payments awarded for medical, therapy, acupuncture, chiropractic, dentistry, counseling, and hospital services pursuant to the acts referred to in subsection (1).

(3) This part does not apply to any benefits payable under:

(a) a policy of life insurance or group life insurance;

(b) a contract of disability insurance, except benefits payable in reimbursement for services rendered by a physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist, optometrist, podiatrist, ambulance service, rehabilitation facility, long-term care facility, psychologist, licensed social worker, licensed professional counselor, hospital, or outpatient center for surgical services; or

(c) an annuity contract or to pension benefits payable under a qualified pension plan."

- END -

HOUSE BILL NO. 319

INTRODUCED BY A. OLSZEWSKI

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING HEALTH CARE PROVIDER AND HEALTH CARE FACILITIES LIEN LAWS TO INCLUDE ADDITIONAL HEALTH CARE PROVIDERS AND FACILITIES; AND AMENDING SECTIONS 71-3-1111, 71-3-1112, 71-3-1114, 71-3-1115, 71-3-1117, AND 71-3-1118, MCA."

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"71-3-1111. Short title. This part may be cited as the "Physician, Nurse, Physical Therapist, Occupational Therapist, Acupuncturist, Chiropractor, Dentist, Psychologist, Licensed Social Worker, Licensed Professional Counselor, Hospital, Optometrist, NATUROPATHIC PHYSICIAN, Podiatrist, Ambulance Service, Rehabilitation Facility, Long-term Care Facility, and Outpatient Center for Surgical Services Lien Act"."

Section 2. Section 71-3-1112, MCA, is amended to read:

"71-3-1112. Purpose. The purpose of this part is to establish lien rights for physicians, nurses, physical therapists, occupational therapists, acupuncturists, chiropractors, dentists, hospitals, optometrists, NATUROPATHIC PHYSICIANS, podiatrists, ambulance services, rehabilitation facilities, long-term care facilities, and outpatient centers for surgical services for the value of services rendered and products provided for the diagnosis and treatment of medical conditions and to establish lien rights for psychologists, licensed social workers, and licensed professional counselors for services rendered and products provided when a person receiving treatment:

- (1) is injured through the fault or neglect of another; or
- (2) is either insured or a beneficiary under insurance."

Section 3. Section 71-3-1114, MCA, is amended to read:

"71-3-1114. Liens of certain health care providers and health care facilities. (1) (a) Upon the required notice of a lien being given, there is a lien as provided in subsection (1)(b) whenever:

- (i) a physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist, hospital, outpatient center for surgical services, optometrist, NATUROPATHIC PHYSICIAN, podiatrist, rehabilitation

1 facility, long-term care facility, or ambulance service renders services or provides products for the diagnosis and
2 treatment of a medical condition; or

3 (ii) a psychologist, licensed social worker, or licensed professional counselor renders services or provides
4 products; and

5 (iii) the services rendered or products provided under subsection (1)(a)(i) or (1)(a)(ii) are rendered or
6 provided to a person injured through the fault or neglect of another.

7 (b) The physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist,
8 hospital, outpatient center for surgical services, ambulance service, optometrist, NATUROPATHIC PHYSICIAN,
9 podiatrist, rehabilitation facility, long-term care facility, psychologist, licensed social worker, or licensed
10 professional counselor has a lien for the value of services rendered or products provided on:

11 (i) any claim or cause of action that the injured person or the injured person's estate or successors may
12 have for injury, disease, or death;

13 (ii) any judgment that the injured person or the estate or successors may obtain for injury, disease, or
14 death; and

15 (iii) all money paid in satisfaction of the judgment or in settlement of the claim or cause of action.

16 (2) (a) If a person is an insured or a beneficiary under insurance that provides coverage in the event of
17 injury or disease, there is a lien as provided in subsection (2)(b) upon required notice of a lien being given by:

18 (i) a physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist,
19 hospital, outpatient center for surgical services, optometrist, NATUROPATHIC PHYSICIAN, podiatrist, rehabilitation
20 facility, long-term care facility, or ambulance service for the value of services rendered or products provided for
21 the diagnosis and treatment of a medical condition; or

22 (ii) a psychologist, licensed social worker, or licensed professional counselor for services rendered or
23 products provided.

24 (b) The lien is on all proceeds or payments, except payments for property damage, payable by the
25 insurer.

26 (3) A physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist,
27 hospital, outpatient center for surgical services, ambulance service, optometrist, NATUROPATHIC PHYSICIAN,
28 podiatrist, rehabilitation facility, long-term care facility, psychologist, licensed social worker, or licensed
29 professional counselor claiming a lien under this part is not liable for attorney fees and costs incurred by the
30 injured person, the injured person's estate or successors, or a beneficiary in connection with obtaining payments

1 or benefits subject to a lien under this part. The lien of an attorney provided for in 37-61-420 has priority over a
2 lien created by this part."

3
4 **Section 4.** Section 71-3-1115, MCA, is amended to read:

5 **"71-3-1115. Notice of lien.** (1) A physician, nurse, physical therapist, occupational therapist,
6 acupuncturist, chiropractor, dentist, psychologist, licensed social worker, licensed professional counselor,
7 hospital, optometrist, NATUROPATHIC PHYSICIAN, podiatrist, ambulance service, rehabilitation facility, long-term care
8 facility, or outpatient center for surgical services claiming a lien shall serve written notice upon the person and
9 upon the insurer, if any, against whom liability for injury, disease, counseling service, or death is asserted, stating
10 the nature of the services, for whom and when rendered, the value of the services, and that a lien is claimed.

11 (2) A physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist,
12 psychologist, licensed social worker, licensed professional counselor, hospital, optometrist, NATUROPATHIC
13 PHYSICIAN, podiatrist, ambulance service, rehabilitation facility, long-term care facility, or outpatient center for
14 surgical services claiming a lien upon proceeds or payments payable by an insurer shall serve written notice upon
15 the insurer against whom the lien is asserted, stating the nature of the services, for whom and when rendered,
16 the value of the services, and that a lien is claimed."

17
18 **Section 5.** Section 71-3-1117, MCA, is amended to read:

19 **"71-3-1117. Liability for failure to recognize lien.** If any insurer or person, after receiving notice of a
20 lien, makes payment on account of injury, disease, counseling service, or death and the amount of the lien
21 claimed by any physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist,
22 optometrist, NATUROPATHIC PHYSICIAN, podiatrist, ambulance service, rehabilitation facility, long-term care facility,
23 psychologist, licensed social worker, licensed professional counselor, hospital, or outpatient center for surgical
24 services has not been paid, the insurer or person is liable to the physician, nurse, physical therapist, occupational
25 therapist, acupuncturist, chiropractor, dentist, optometrist, NATUROPATHIC PHYSICIAN, podiatrist, ambulance service,
26 rehabilitation facility, long-term care facility, psychologist, licensed social worker, licensed professional counselor,
27 hospital, or outpatient center for surgical services for the reasonable value of the services."

28
29 **Section 6.** Section 71-3-1118, MCA, is amended to read:

30 **"71-3-1118. Applicability.** (1) Except as provided in subsection (2), this part does not apply to

1 compensation awarded to workers for injury, disease, or death pursuant to the Workers' Compensation Act.

2 (2) This part applies to all payments awarded for medical, therapy, acupuncture, chiropractic, dentistry,
3 counseling, and hospital services pursuant to the acts referred to in subsection (1).

4 (3) This part does not apply to any benefits payable under:

5 (a) a policy of life insurance or group life insurance;

6 (b) a contract of disability insurance, except benefits payable in reimbursement for services rendered
7 by a physician, nurse, physical therapist, occupational therapist, acupuncturist, chiropractor, dentist, optometrist,
8 NATUROPATHIC PHYSICIAN, podiatrist, ambulance service, rehabilitation facility, long-term care facility, psychologist,
9 licensed social worker, licensed professional counselor, hospital, or outpatient center for surgical services; or

10 (c) an annuity contract or to pension benefits payable under a qualified pension plan."

11 - END -

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 64th LEGISLATURE - REGULAR SESSION

COMMITTEE ON HUMAN SERVICES

Call to Order: Chair Art Wittich, on February 2, 2015 at 3:00 PM, in Room 152 Capitol

ROLL CALL

Members Present:

Rep. Art Wittich, Chair (R)
Rep. Ellie Boldman Hill, Vice Chair (D)
Rep. Kirk Wagoner, Vice Chair (R)
Rep. Seth Berglee (R)
Rep. Alan Doane (R)
Rep. Bill Harris (R)
Rep. Denise Hayman (D)
Rep. Stephanie Hess (R)
Rep. Jessica Karjala (D)
Rep. Forrest Mandeville (R)
Rep. Albert Olszewski (R)
Rep. Carolyn Pease-Lopez (D)
Rep. Gordon Pierson Jr (D)
Rep. Alan Redfield (R)
Rep. Vince Ricci (R)

Members Excused: Rep. Jennifer Eck (D)
Rep. Tom Jacobson (D)

Members Absent: None

Staff Present: Sue O'Connell, Legislative Branch
Phoebe Williams, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HB 305, 1/27/2015; HB 319, 1/27/2015; HB 348, 1/27/2015

00:01:09 Chairman Wittich

HEARING ON HB 348

Opening Statement by Sponsor:

00:01:34 Rep. Nancy Ballance (R), HD 87, opened the hearing on HB 348, Authorize interstate healthcare compact.

Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

00:10:06 Rep. Karjala
00:11:27 Rep. Ballance
00:12:19 Rep. Karjala
00:12:41 Rep. Ballance
00:13:10 Rep. Olszewski
00:13:27 Rep. Ballance
00:14:09 Chairman Wittich
00:14:24 Rep. Ballance
00:14:45 Rep. Pierson
00:14:58 Rep. Ballance
00:15:06 Rep. Pierson
00:15:11 Rep. Ballance
00:15:33 Rep. Pierson
00:15:43 Rep. Ballance

Closing by Sponsor:

00:15:56 Rep. Ballance

HEARING ON HB 305

Opening Statement by Sponsor:

00:17:15 Rep. Kimberly Dudik (D), HD 94, opened the hearing on HB 305, Revise laws related to protecting Montana's children.

Proponents' Testimony:

00:19:46 Lt. Governor Angela McLean
00:22:45 Chairman Wittich
00:23:02 Sarah Corbally, Department of Health and Human Services (DPHHS)
00:32:47 Kelsen Young, Montana Coalition Against Sexual and Domestic Violence
00:35:02 Lora Cowee, Intermountain and Montana Children's Institute
00:40:14 Jamie Bailey, foster parents
00:45:13 Kate Siegrist, Missoula City County Health Department
00:45:45 Judith Birr, Missoula Foster Child Health Program

[EXHIBIT\(huh23a01\)](#)

00:50:19 Janie McCall, Legacy Provider Group
 00:53:37 Schyler Canfield-Baber, Self
 00:57:57 Pam Young, Court Appointed Special Advocate (CASA) of Lewis and Clark and
 Broadwater Counties
 01:00:40 Todd Garrison, Child Wise Institute

EXHIBIT(huh23a02)

01:07:52 Barbara Burton, Florence Crittenton Home
 01:10:36 Scott Pederson, Montana Attorney General's Office
 01:13:04 Terry Minow, MEA-MFT
 01:14:51 Edith Clark, Self
 01:15:39 Abigail St. Lawrence, Montana Association of Christians (MAC)
 01:17:09 Bryan Lockerby, Montana Division of Criminal Investigation
 01:18:35 Drenda Niemann, Lewis and Clark City County Health Department (LCCCHD)

EXHIBIT(huh23a03)

01:20:49 Dr. Bart Klika, Professor University of Montana

EXHIBIT(huh23a04)

EXHIBIT(huh23a05)

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

01:24:21 Rep. Karjala
 01:24:56 Dr. Klika
 01:26:04 Rep. Karjala
 01:27:11 Dr. Klika
 01:27:44 Sarah Corbally DPHHS
 01:28:13 Rep. Pease Lopez
 01:29:06 Sarah Corbally DPHHS
 01:30:25 Rep. Pease Lopez
 01:30:36 Sarah Corbally, DPHHS
 01:30:41 Rep. Hill
 01:31:24 Sarah Corbally, DPHHS
 01:33:10 Rep. Hill
 01:33:47 Chairman Wittich
 01:34:19 Sarah Corbally, DPHHS
 01:36:12 Rep. Olszewski
 01:36:55 Sarah Corbally, DPHHS
 01:38:47 Rep. Harris
 01:40:27 Bryan Lockerby, Montana Division of Criminal Investigation
 01:41:24 Rep. Harris
 01:42:11 Rep. Dudik
 01:42:43 Rep. Harris

01:42:55 Rep. Dudik
01:43:09 Rep. Wagoner
01:43:30 Sarah Corbally DPHHS
01:45:05 Chairman Wittich
01:49:02 Sarah Corbally, DPHHS

Closing by Sponsor:

01:49:15 Rep. Dudik

HEARING ON HB 319

Opening Statement by Sponsor:

01:51:23 Rep. Albert Olszewski (R), HD 11, opened the hearing on HB 319, Revise medical lien laws.

Proponents' Testimony:

01:52:40 Mark Baker, Kalispell Regional Health Care (KRH)

[EXHIBIT\(huh23a06\)](#)

[EXHIBIT\(huh23a07\)](#)

01:58:20 Al Smith, Montana Trial Lawyers (MTLA)

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

01:59:52 Rep. Ricci
02:00:16 Mark Baker, KRH
02:00:52 Rep. Hayman
02:01:23 Mark Baker, KRH
02:01:36 Al Smith, MTLA
02:02:12 Rep. Hayman
02:02:45 Al Smith, MTLA
02:03:15 Chairman Wittich
02:03:39 Mark Baker, KRH

Closing by Sponsor:

02:04:46 Rep. Olszewski
02:05:07 Chairman Wittich

ADJOURNMENT

Adjournment: 02:05:28

Phoebe Williams, Secretary

pw

Additional Documents:

Additional Documents:

EXHIBIT([huh23aad.pdf](#))



ANDERSON
BAKER &
SWANSON
ATTORNEYS AT LAW

THE HEALTHCARE LIEN

Liens exist to give creditors a level of security in their prospects for recovery that might not otherwise be possible. A lien is broadly defined in Black's Law Dictionary as "[a] legal right or interest that a creditor has in another's property, lasting usu[ally] until a debt or duty that it secures is satisfied." The concept of a lien originated with mechanics, artisans, and other laborers. The original lien enforcement mechanism was literally for the lienholder to refuse to return property in its possession until the owner produced payment for services rendered.

In modern jurisprudence, the use of liens has been expanded primarily through state legislative action. Some of these liens, unlike the more traditional lien, attach to a debtor's non-material rights or interests. Specifically, some modern lien iterations attach to the value of a debtor's legal claim or cause of action. The healthcare lien is such a lien.

A healthcare lien is a legal interest that a healthcare provider may secure against a patient's legal claim or cause of action arising from treated injuries when the provider has not received full compensation for treatment rendered to that patient. Healthcare liens attach to any monetary recovery that the patient may secure against a third party—whether through a judgment, verdict, or settlement—for the medical treatment provided. Healthcare providers typically assert these liens after treating a patient for injuries sustained at the hands of a third-party tortfeasor, entitling the provider to a share of the proceeds of that patient's personal injury claim.

The prevailing policy objective behind state healthcare lien statutes is to enable healthcare providers to secure some compensation for their treatment of uninsured or underinsured individuals. Providers usually invoke these liens only when a patient lacks comprehensive health insurance and is thus likely unable to pay for treatment. Federal law essentially compels hospitals to provide emergency-room care to all who seek it, without ascertaining a prospective patient's ability to pay. Given the extremely high cost of emergency medical care, the losses associated with treating such uninsured patients can be a heavy burden for hospitals to bear. Thus, healthcare lien statutes help to preserve the financial viability of hospitals by providing them an efficient, relatively secure mechanism to mitigate these losses.

The healthcare lien has now achieved nearly nationwide acceptance. Forty-one states, as well as the District of Columbia, have enacted statutes implementing some form of healthcare lien. Some of these state healthcare lien statutes apply only to certain designated healthcare providers, such as hospitals or charitable institutions, but other statutes enable virtually all healthcare providers to secure liens.

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OFFICE OF THE GOVERNOR
STATE OF MONTANA

STEVE BULLOCK
GOVERNOR



JOHN WALSH
LT. GOVERNOR

May 6, 2013

The Honorable Linda McCulloch
Secretary of State
State Capitol
Helena, MT 59620

Dear Secretary McCulloch:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto House Bill 473 (HB 473), "AN ACT GENERALLY REVISING HEALTH CARE PROVIDER AND HEALTH CARE FACILITIES LIEN LAWS; EXPANDING LIENS TO INCLUDE OPTOMETRISTS, PODIATRISTS, REHABILITATION FACILITIES, AND LONG-TERM CARE FACILITIES; REQUIRING NOTICE TO ALL KNOWN PAYERS WHEN AN ACTION IS COMMENCED AND A NOTICE OF LIEN IS FILED; AMENDING SECTIONS 71-3-1111, 71-3-1112, 71-3-1114, 71-3-1115, 71-3-1116, 71-3-1117, AND 71-3-1118, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

HB 473 expands Montana's medical lien laws to include optometrists, podiatrists, rehabilitation facilities and long-term care facilities as providers entitled to assert a lien when their patients are injured through the fault of a third party or are the beneficiary of insurance. This aspect of HB 473 is appropriate, and if those changes were the only amendments to the medical lien laws, I would sign HB 473 without hesitation.

Unfortunately, however, HB 473 also includes amendments to Montana's medical lien laws that are inappropriate, unnecessary, and internally inconsistent. When a patient has health insurance, that patient is entitled under Montana law to receive the benefits of that health insurance, even if the patient also has a liability claim against a third party. Medical providers are entitled to assert liens for any unpaid medical bills. The amendments in Sections 3 and 5 of HB 473 would inappropriately allow providers to effectively demand direct payment from third party liability insurers. While such direct payments may be appropriate under some circumstances, they are not appropriate in others.

The amendments in sections 3 and 5 of HB 473 are unnecessary. Montana's current lien laws give providers sufficient protection and the ability to enforce their liens.

Finally, section 3 of HB 473 contains internally inconsistent provisions in subsections (2)(b) and (3), with respect to the priority of attorney liens. Subsection (2)(b) provides that direct payment to a provider fully satisfies a lien, including an attorney lien, while subsection (3) provides that an

Secretary McCulloch
May 6, 2013
Page2

attorney lien has priority over a medical lien. These contradictory provisions are likely to result in unnecessary and counterproductive conflicts and potential litigation.

For these reasons, I veto HB 473.

Sincerely,

A handwritten signature in black ink, appearing to be 'JB' or 'Steve', with a horizontal line extending from the end.

STEVE BULLOCK
Governor

cc: Legislative Services Division
Mark Blasdel, Speaker of the House
Jeff Essmann, President of the Senate

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 64th LEGISLATURE - REGULAR SESSION

COMMITTEE ON HUMAN SERVICES

Call to Order: Chair Art Wittich, on February 4, 2015 at 3:00 PM, in Room 152 Capitol

ROLL CALL

Members Present:

Rep. Art Wittich, Chair (R)
Rep. Ellie Boldman Hill, Vice Chair (D)
Rep. Kirk Wagoner, Vice Chair (R)
Rep. Seth Berglee (R)
Rep. Jennifer Eck (D)
Rep. Bill Harris (R)
Rep. Denise Hayman (D)
Rep. Stephanie Hess (R)
Rep. Tom Jacobson (D)
Rep. Jessica Karjala (D)
Rep. Albert Olszewski (R)
Rep. Carolyn Pease-Lopez (D)
Rep. Gordon Pierson Jr (D)
Rep. Alan Redfield (R)
Rep. Vince Ricci (R)

Members Excused: Rep. Alan Doane (R)
Rep. Forrest Mandeville (R)

Members Absent: None

Staff Present: Sue O'Connell, Legislative Branch
Phoebe Williams, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HB 318, 1/30/2015; HB 349, 1/30/2015
Executive Action: HB 348, HB 319, HB 191 and SB 5

HEARING ON HB 349**Opening Statement by Sponsor:**

00:00:59 Rep. Kathleen Williams (D), HD 61, opened the hearing on HB 349, Address discriminatory health insurance policy practices.

[EXHIBIT\(huh25a01\)](#)

Proponents' Testimony:

00:05:32 Christina Goe, State Auditor, Montana Insurance Commissioners Office
00:06:44 Kim Abbott, Montana Human Rights Network
00:07:10 Sheena Rice, Montana Organizing Project
00:07:41 Erin McGowan, Association of Public health Officials, Montana Public Health Association, Montana Cancer Society - Cancer Action Network, AARP of Montana, Leukemia, Lymphoma Society, Multiple Sclerosis Society and Riverstone Health.
00:09:14 Jean Branscum, Montana Medical Association (MMA)

Opponents' Testimony:

00:09:56 Bruce Spencer, America's Health Insurance Plans (AHIP)

Informational Testimony: None

Questions from Committee Members and Responses:

00:12:36 Rep. Hess
00:12:55 Rep. Williams
00:12:59 Rep. Hess
00:13:09 Rep. Williams
00:13:31 Christina Goe, State Auditor's Office
00:14:00 Chairman Wittich
00:14:40 Rep. Williams
00:15:26 Chairman Wittich
00:15:36 Rep. Williams
00:15:48 Christina Goe, State Auditor's Office
00:16:10 Chairman Wittich
00:16:19 Christina Goe, State Auditor's Office
00:16:41 Rep. Wagoner
00:17:23 Bruce Spencer,
00:17:45 Chairman Wittich
00:17:49 Bruce Spencer, AHIP
00:17:57 Rep. Eck
00:18:09 Rep. Wagoner
00:18:19 Rep. Eck
00:18:24 Christina Goe, State Auditors Office
00:20:09 Chairman Wittich

Closing by Sponsor:

00:20:18 Rep. Williams

HEARING ON HB 318**Opening Statement by Sponsor:**

00:22:54 Rep. Ellie Boldman Hill (D), HD 90, opened the hearing on HB 318, Require insurance coverage for children with down syndrome.

Proponents' Testimony:

00:26:13 Sarah Corbally, Self
00:28:28 Susan Ramsey, Self
00:29:07 Rachel Stansberry, Montana Speech Language and Hearing Association (MSHA)
00:30:59 Bruce Brensdol, Self
00:31:48 Wally Melcher, Montana Association for Community Disability Advocates (MACDS)

[EXHIBIT\(huh25a02\)](#)

Opponents' Testimony:

00:34:03 Bruce Spencer, America's Health Insurance Plans (MHIP)

Informational Testimony:**Questions from Committee Members and Responses:**

00:37:11 Rep. Olszewski
00:37:55 Rachel Stansberry, MSHA
00:37:58 Rep. Olszewski
00:38:06 Rachel Stansberry, MSHA
00:38:43 Rep. Wagoner
00:39:04 Rachel Stansberry, MSHA
00:40:09 Rep. Karjala
00:40:57 Rachel Stansberry, MSHA
00:41:26 Chairman Wittich
00:42:16 Sue O'Connell, LSD
00:42:37 Chairman Wittich
00:42:46 Sue O'Connell, LSD
00:43:00 Chairman Wittich
00:43:28 Rep. Hill
00:43:50 Chairman Wittich
00:44:38 Rep. Hill
00:46:31 Wally Melcher, MACDS
00:47:54 Rep. Pierson
00:48:34 Chairman Wittich
00:48:59 Rep. Hill
00:50:42 Rep. Hayman
00:51:29 Rachel Stansberry, MSHA
00:52:37 Rep. Olszewski
00:54:01 Rep. Karjala

Closing by Sponsor:

00:55:58 Rep. Hill

EXECUTIVE ACTION ON HB 319

01:00:06 **Motion:** Rep. Wagoner moved that **HB 319 DO PASS**.

Discussion:

01:01:19 Chairman Wittich

01:01:30 Rep. Olszewski

01:01:57 **Vote:** Motion carried 10-7 by roll call vote with Rep. Eck, Rep. Hayman, Rep. Hill, Rep. Jacobson, Rep. Karjala, Rep. Pease-Lopez and Rep. Pierson voting no. Rep. Doane and Rep. Mandeville voted by proxy.

EXECUTIVE ACTION ON SB 5

01:03:21 **Motion/Vote:** Rep. Wagoner moved that **SB 5 BE CONCURRED IN**. Motion carried unanimously by voice vote. Rep. Doane and Rep. Mandeville voted by proxy. Rep. Salomon will carry the bill.

EXECUTIVE ACTION ON HB 191

01:04:45 **Motion:** Rep. Wagoner moved that **HB 191 DO PASS**.

Discussion:

01:05:07 Rep. Eck

01:06:14 Chairman Wittich

01:06:37 Rep. Eck

01:08:52 Chairman Wittich

01:09:12 Rep. Eck

01:09:36 Rep. Mandeville joined the meeting

01:10:07 Chairman Wittich

01:10:14 Rep. Eck

01:10:34 Chairman Wittich

01:10:40 Beth Brennaman, Disability Rights Montana

01:11:14 Rep. Eck

01:11:40 Chairman Wittich

01:12:16 **Vote:** Motion carried unanimously by voice vote. Rep. Doane voted by proxy.

EXECUTIVE ACTION ON HB 348

01:13:08 **Motion:** Rep. Wagoner moved that **HB 348 DO PASS**.

Discussion:

01:13:21 Rep. Redfield

01:13:52 Chairman Wittich

01:14:08 **Vote:** Motion carried 10-7 by roll call vote with Rep. Eck, Rep. Hayman, Rep. Hill, Rep. Jacobson, Rep. Karjala, Rep. Pease-Lopez and Rep. Pierson voting no. Rep. Doane voted by proxy.

01:15:15 Chairman Wittich

ADJOURNMENT

Adjournment: 01:19:23

Phoebe Williams, Secretary

pw

Additional Documents:

EXHIBIT([huh25aad.pdf](#))

MINUTES

MONTANA SENATE 64th LEGISLATURE - REGULAR SESSION

COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY

Call to Order: Chair Fred Thomas, on March 9, 2015 at 3:00 PM, in Room 317 Capitol

ROLL CALL

Members Present:

Sen. Fred Thomas, Chair (R)
Sen. David Howard, Vice Chair (R)
Sen. Mary Caferro (D)
Sen. Diane Sands (D)
Sen. Nels Swandal (R)
Sen. Jonathan Windy Boy (D)

Members Excused: Sen. Cary Smith (R)

Members Absent: None

Staff Present: Barbara Pietuch, Committee Secretary
Alexis Sandru, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: SR 14, 2/24/2015; SR 16, 2/24/2015; SR 23, 2/24/2015; HB 319, 2/25/2015

Executive Action: HB 319 - BE CONCURRED IN AS AMENDED; SR 14 BE ADOPTED;
SR 16 - BE ADOPTED; SR 23 - BE ADOPTED

00:00:01 Chairman Thomas

00:00:20 Chairman Thomas turned the chair over to Vice Chair Howard.

HEARING ON SR 16

Opening Statement by Sponsor:

00:02:02 Sen. Fred Thomas (R), SD 44, opened the hearing on SR 16, Confirm Governor's appointee to the board of public assistance.

[EXHIBIT](#)(phs48a01)

Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

00:03:04 Sen. Thomas

HEARING ON SR 23

Opening Statement by Sponsor:

00:03:19 Sen. Fred Thomas (R), SD 44, opened the hearing on SR 23, Confirm Governor's appointee to board radiologic technologists.

[EXHIBIT](#)(phs48a02)

Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

00:04:11 Sen. Thomas

HEARING ON SR 14

Opening Statement by Sponsor:

00:04:29 Sen. Fred Thomas (R), SD 44, opened the hearing on SR 14, Confirm Governor's appointees for health related boards.

Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

00:06:50 Sen. Thomas

00:08:28 Committee reviewed resumes.

[EXHIBIT\(phs48a03\)](#)

00:21:51 Vice Chair Howard turned the chair back over to Chairman Thomas.

HEARING ON HB 319

Opening Statement by Sponsor:

00:22:01 Rep. Albert Olszewski (R), HD 11, opened the hearing on HB 319, Revise medical lien laws.

Proponents' Testimony:

00:23:06 Mark Baker, attorney, representing Kalispell Regional Healthcare (KRH)

[EXHIBIT\(phs48a04\)](#)

00:26:40 Casey Blumenthal, Association of Montana Health Care Providers

00:27:50 Jane Hamman, Montana Association of Naturopathic Physicians

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

00:28:35 Rep. Olszewski

EXECUTIVE ACTION ON HB 319

00:29:30 **Motion:** Sen. Swandal moved that **HB 319 BE CONCURRED IN.**

00:29:49 **Motion:** Sen. Swandal moved that **HB 319 BE AMENDED.**

[EXHIBIT\(phs48a05\)](#)

00:30:10 **Vote:** Motion carried 6-0 by voice vote. Sen. Smith was excused.

Discussion:

00:30:25 Sen. Sands
00:30:59 Chairman Thomas
00:31:03 Sen. Swandal
00:31:07 Sen. Sands
00:31:14 Chairman Thomas
00:31:32 Mr. Baker, KRH
00:32:11 Chairman Thomas
00:32:37 Mr. Baker
00:33:22 Sen. Sands
00:33:37 Chairman Thomas

00:34:31 **Motion/Vote:** Sen. Swandal moved that **HB 319 BE CONCURRED IN AS AMENDED**. Motion carried 5-1 by voice vote with Sen. Windy Boy voting no. Sen. Smith was excused. Sen. Swandal will carry the bill.

EXECUTIVE ACTION ON SR 23

00:35:45 **Motion/Vote:** Sen. Swandal moved that **SR 23 BE ADOPTED**. Motion carried 6-0 by voice vote. Sen. Smith was excused.

EXECUTIVE ACTION ON SR 16

00:36:11 **Motion:** Sen. Howard moved that **SR 16 BE ADOPTED**.

Discussion:

00:36:36 Sen. Sands
00:37:47 Chairman Thomas

00:38:08 **Vote:** Motion carried 6-0 by voice vote. Sen. Smith was excused.

EXECUTIVE ACTION ON SR 14

00:38:46 **Motion:** Sen. Swandal moved that **SJ 14 BE ADOPTED**.

Discussion:

00:38:47 Sen. Swandal
00:39:47 Sen. Windy Boy
00:39:54 Chairman Thomas

00:40:05 **Vote:** Motion carried 6-0 by voice vote. Sen. Smith was excused.

Committee Business:

00:40:44 Chairman Thomas

00:41:58 Sen. Windy Boy
00:42:03 Chairman Thomas

ADJOURNMENT

Adjournment: 3:46 PM

Barbara Pietuch, Secretary

bp

Additional Documents:

EXHIBIT([phs48aad.pdf](#))

SENATE

PUBLIC HEALTH, WELFARE & SAFETY

Exhibit No. 4Date 3/9/2015Bill No. HB 319

ANDERSON
BAKER &
SWANSON
ATTORNEYS AT LAW

THE HEALTHCARE LIEN

Liens exist to give creditors a level of security in their prospects for recovery that might not otherwise be possible. A lien is broadly defined in Black's Law Dictionary as "[a] legal right or interest that a creditor has in another's property, lasting usu[ally] until a debt or duty that it secures is satisfied." The concept of a lien originated with mechanics, artisans, and other laborers. The original lien enforcement mechanism was literally for the lienholder to refuse to return property in its possession until the owner produced payment for services rendered.

In modern jurisprudence, the use of liens has been expanded primarily through state legislative action. Some of these liens, unlike the more traditional lien, attach to a debtor's non-material rights or interests. Specifically, some modern lien iterations attach to the value of a debtor's legal claim or cause of action. The healthcare lien is such a lien.

A healthcare lien is a legal interest that a healthcare provider may secure against a patient's legal claim or cause of action arising from treated injuries when the provider has not received full compensation for treatment rendered to that patient. Healthcare liens attach to any monetary recovery that the patient may secure against a third party—whether through a judgment, verdict, or settlement—for the medical treatment provided. Healthcare providers typically assert these liens after treating a patient for injuries sustained at the hands of a third-party tortfeasor, entitling the provider to a share of the proceeds of that patient's personal injury claim.

The prevailing policy objective behind state healthcare lien statutes is to enable healthcare providers to secure some compensation for their treatment of uninsured or underinsured individuals. Providers usually invoke these liens only when a patient lacks comprehensive health insurance and is thus likely unable to pay for treatment. Federal law essentially compels hospitals to provide emergency-room care to all who seek it, without ascertaining a prospective patient's ability to pay. Given the extremely high cost of emergency medical care, the losses associated with treating such uninsured patients can be a heavy burden for hospitals to bear. Thus, healthcare lien statutes help to preserve the financial viability of hospitals by providing them an efficient, relatively secure mechanism to mitigate these losses.

The healthcare lien has now achieved nearly nationwide acceptance. Forty-one states, as well as the District of Columbia, have enacted statutes implementing some form of healthcare lien. Some of these state healthcare lien statutes apply only to certain designated healthcare providers, such as hospitals or charitable institutions, but other statutes enable virtually all healthcare providers to secure liens.

Mark Baker on behalf of Kalispell Regional Healthcare
Anderson, Baker & Swanson, PLLC
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Amendments to House Bill No. 319
3rd Reading Copy

Requested by Representative Albert Olszewski

For the Senate Public Health, Welfare and Safety Committee

Prepared by Alexis Sandru
February 26, 2015 (12:59pm)

1. Page 1, line 13.

Following: "Optometrist,"

Insert: "Naturopathic Physician,"

2. Page 1, line 18.

Following: "optometrists,"

Insert: "naturopathic physicians,"

3. Page 1, line 30.

Following: "optometrist,"

Insert: "naturopathic physician,"

4. Page 2, line 8.

Following: "optometrist,"

Insert: "naturopathic physician,"

5. Page 2, line 19.

Following: "optometrist,"

Insert: "naturopathic physician,"

6. Page 2, line 27.

Following: "optometrist,"

Insert: "naturopathic physician,"

7. Page 3, line 6.

Following: "optometrist,"

Insert: "naturopathic physician,"

8. Page 3, line 11.

Following: "optometrist,"

Insert: "naturopathic physician,"

9. Page 3, line 21.

Following: "optometrist,"

Insert: "naturopathic physician,"

10. Page 3, line 24.

Following: "optometrist,"

Insert: "naturopathic physician,"

11. Page 4, line 6.

Following: "optometrist,"

Insert: "naturopathic physician,"

- END -